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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/731,167	12/10/2003	Till Gerlach	54173	5074

26474 7590 04/20/2006

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EXAMINER

DAVIS, BRIAN J

ART UNIT PAPER NUMBER

1621

DATE MAILED: 04/20/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/731,167

Applicant(s)

GERLACH ET AL.

Examiner

Brian J. Davis

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12/30/05 (petition).
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5,9-17 and 20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5,9-12 and 20 is/are allowed.
- 6) ☒ Claim(s) 13-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Specification***

The objection to the specification, outlined in the previous Office Action, is maintained for reasons of record.

### ***Drawings***

The objection to the drawing, outlined in the previous Office Action, has been overcome by applicant's submission of an acceptably labeled drawing.

### ***112 Rejections Withdrawn, FIRST PARAGRAPH***

The rejection of claims 1-17 under 35 USC 112, first paragraph, outlined in the previous Office Action, has been overcome by applicant's amendment and arguments. The amendment cancels claims 6-8. With respect to the remaining claims, applicant's amendment narrowing the independent claim and accompanying arguments have been carefully considered and are persuasive. The examiner is now in agreement with applicant that the claims are enabled.

### ***112 Rejections Withdrawn, SECOND PARAGRAPH***

The rejection of claims 1 and 13-17 under 35 USC 112, second paragraph, outlined in the previous Office Action, has been overcome by applicant's amendment. The amendment clarifies the independent claim as appropriate.

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The rejection of claim 9 under 35 USC 112, second paragraph, outlined in the previous Office Action, has been overcome by applicant's amendment. The amendment clarifies the claim as appropriate.

The rejection of the remaining claims, as indefinite because they depend from an indefinite claim, is withdrawn. The rejection is moot.

### ***112 Rejections, NEW***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 13-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. There is insufficient antecedent basis for the terms "unsaturated group" or "aliphatically unsaturated group" in the claims. (Applicant's latest amendment has deleted the term from the independent claim.) The examiner respectfully suggests that the terms should more properly be: "non-aromatic group."

### ***102 Rejections Withdrawn***

The rejection of claims 1-6 and 10-17 under 35 USC 102(b) over US 6,034,029, outlined in the previous Office Action, has been overcome by applicant's amendment. The amendment narrows the independent claim such that it no longer reads on the cited prior art. The amendment cancels claim 6.

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The rejection of claims 1-17 under 35 USC 102(b) over US 5,037,793, outlined in the previous Office Action, has been overcome by applicant's amendment. The examiner notes for clarity of the record that the rejection with regard to some claims (for instance, claim 8) was improper. The examiner regrets the error. In any case, applicant's arguments have been carefully considered in light of amended claim 1. The examiner is in agreement with applicant that the cited prior art does not teach the Co limitation of the instant claim. The amendment cancels claims 6-8.

The rejection of claims 1-12, 14, 16 and 17 under 35 USC 102(b) over US 5,015,788, outlined in the previous Office Action, has been overcome by applicant's amendment. As above, the examiner notes for clarity of the record that the rejection with regard to some claims was improper. In any case, applicant's arguments have been carefully considered in light of amended claim 1. The examiner is in agreement with applicant that the cited prior art does not teach the Co limitation of the instant claim. The amendment cancels claims 6-8.

### ***Allowable Subject Matter***

Claims 1-5, 9-12 and 20 are allowed. The remaining claims would be allowable once the 112 rejections outlined above have been overcome.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Davis whose telephone number is 571-272-0638. The examiner can normally be reached on 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Johann Richter can be reached on 571-272-0646. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
BRIAN DAVIS  
PRIMARY EXAMINER  
Brian J. Davis  
April 10, 2006